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07/891,934	05/29/92	EYLES D	DR-232J

DOWNS, R EXAMINER

E3M1/0708

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ART UNIT	PAPER NUMBER
2308	8

DATE MAILED: 07/08/94

This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

☐ This application has been examined ☒ Responsive to communication filed on 4/20/94 ☒ This action is made final.

A shortened statutory period for response to this action is set to expire 3 month(s), NO days from the date of this letter.
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

1. ☒ Notice of References Cited by Examiner, PTO-892.
2. ☐ Notice re Patent Drawing, PTO-948.
3. ☐ Notice of Art Cited by Applicant, PTO-1449.
4. ☐ Notice of Informal Patent Application, Form PTO-152.
5. ☐ Information on How to Effect Drawing Changes, PTO-1474.
6. ☐ _____

Part II SUMMARY OF ACTION

1. ☒ Claims 1-19 are pending in the application.
   Of the above, claims _____ are withdrawn from consideration.
2. ☐ Claims _____ have been cancelled.
3. ☐ Claims _____ are allowed.
4. ☒ Claims 1-19 are rejected.
5. ☐ Claims _____ are objected to.
6. ☐ Claims _____ are subject to restriction or election requirement.
7. ☒ This application has been filed with informal drawings under 37 C.F.R. 1.85 which are acceptable for examination purposes.
8. ☐ Formal drawings are required in response to this Office action.
9. ☐ The corrected or substitute drawings have been received on _____. Under 37 C.F.R. 1.84 these drawings are ☐ acceptable. ☐ not acceptable (see explanation or Notice re Patent Drawing, PTO-948).
10. ☐ The proposed additional or substitute sheet(s) of drawings, filed on _____ has (have) been ☐ approved by the examiner. ☐ disapproved by the examiner (see explanation).
11. ☐ The proposed drawing correction, filed on _____, has been ☐ approved. ☐ disapproved (see explanation).
12. ☐ Acknowledgment is made of the claim for priority under U.S.C. 119. The certified copy has ☐ been received ☐ not been received ☐ been filed in parent application, serial no. _____; filed on _____
13. ☐ Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.
14. ☐ Other

EXAMINER'S ACTION

PTOL-326 (Rev. 9-89)

1. This Office action is in response to the Amendment of April 20, 1994 and in reference to the prior Office action mailed October 21, 1993.

2. The objection to the disclosure is maintained. The computer programs, now appendix A and B, are partially illegible and should be replaced with clean copies. Appropriate correction is required.

3. Claims 1-19 stand rejected under 35 U.S.C. § 102(b) as being clearly anticipated by the TIMELINER language.

§ 102(b) requires that a person shall not be entitled to a patent if "the invention was ... in public use ... in this country, more than one year prior to the date of the application for patent in the United States."

An example of a public use is "the nonsecret use of a claimed process in the usual course of producing articles for commercial purposes." From W. L. Gore & Associates v. Garlock, Inc., 220 USPQ 303, 309 (Fed. Cir. 1983).

The Declaration of April 20, 1994 points out that the Fortran version of TIMELINER (1986) was created for use for the Aeroassist Flight Experimentation project, and that the Ada version of TIMELINER (Autumn 1990) was created for use for the DMS testbed project. Both of these constitute commercial

purposes. There is no indication that the creation of TIMELINER was kept secret, i.e. there is no indication of a secrecy policy or agreement. It can be seen that the creation of TIMELINER was a public use in that it was nonsecretly used for the purpose of producing articles for commercial purposes.

The rejection under 35 U.S.C. § 102(b) over the prior public use of the TIMELINER language is deemed proper.

4. Claims 1-19 stand rejected under 35 U.S.C. § 102(b) as being clearly anticipated by *Perkins et al*.

Applicant argues, "the method described in the reference applies to the analysis of time-varying data such as "a patient's computer record," which occurs after the data is gathered into a data base." The examiner does not agree. As in the claimed invention, a data-driven rule's WHEN: part, such as that shown in Fig. 7, will be evaluated continuously and iteratively to determine if it is fulfilled, and only when it is fulfilled will the forward chaining process begin processing the THEN: part of the rule. In other words, a forward-chaining process will continually and iteratively cycle through a set of rules containing the rule shown in Fig. 7, and will check conditions in all of the set of rules, but only when a condition is fulfilled will forward-chaining processing perform the associated task.

The WHEN: statement acts as a gate, where until the condition is fulfilled, control will not be passed to the THEN: statement.

The applicant further argues that the present invention supports decision making on the basis of current data and not past data. The examiner cannot agree. The claims do not preclude the use of past data in determining a "period of time which must be satisfied" for a condition to be fulfilled; claim 3.

5. Claims 1-19 stand rejected as being clearly anticipated because of applicant's commercial exploitation of the TIMELINER language.

As in the above paragraph 3, the Declaration of April 20, 1994 points out where the TIMELINE language was developed for commercial purposes over one year prior to the application for a patent; the Fortran version of TIMELINER (1986) was created for use for the Aeroassist Flight Experimentation project, and the Ada version of TIMELINER (Autumn 1990) was created for use for the DMS testbed project.

Use for commercial purposes has been held to be a form of public use, as per: "the nonsecret use of a claimed process in the usual course of producing articles for commercial purposes." W. L. Gore & Associates v. Garlock, Inc., 220 USPQ 303, 309 (Fed. Cir. 1983).

Thus, the rejection for commercial exploitation of an invention is deemed proper.

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Gross et al. (U.S. Patent No. 5,283,856) disclose a When-If-Then event-driven paradigm.

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 C.F.R. § 1.136(a).

A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THIS FINAL ACTION IS SET TO EXPIRE THREE MONTHS FROM THE DATE OF THIS ACTION. IN THE EVENT A FIRST RESPONSE IS FILED WITHIN TWO MONTHS OF THE MAILING DATE OF THIS FINAL ACTION AND THE ADVISORY ACTION IS NOT MAILED UNTIL AFTER THE END OF THE THREE-MONTH SHORTENED STATUTORY PERIOD, THEN THE SHORTENED STATUTORY PERIOD WILL EXPIRE ON THE DATE THE ADVISORY ACTION IS MAILED, AND ANY EXTENSION FEE PURSUANT TO 37 C.F.R. § 1.136(a) WILL BE CALCULATED FROM THE MAILING DATE OF THE ADVISORY ACTION. IN NO EVENT WILL THE STATUTORY PERIOD FOR RESPONSE EXPIRE LATER THAN SIX MONTHS FROM THE DATE OF THIS FINAL ACTION.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert Downs whose telephone number is (703) 305-9642.

Robert W. Downs

ROBERT W. DOWNS
PATENT EXAMINER
GROUP 230

RWD
July 6, 1994